

TITLE I.

RULES ON ORDINANCES

(The language contained in an ordinance should be clear and concise so as to express the meaning and intent of the legislative body as far as possible. With that end in mind, this Title encompasses those provisions of the Code which aid in interpreting and understanding the language contained in the ordinances that follow in subsequent titles.)

CHAPTER

1 RULES ON ORDINANCES

CHAPTER 1

RULES ON ORDINANCES

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ARTICLE 1. TITLE OF VOLUME

Sec. 1-1.1 Title.

This volume shall be known and may be cited as "Kauai County Code 1987" and its official abbreviated designation shall be "K.C.C. 1987." (Sec. 1-1.1, R.C.O. 1976)

ARTICLE 2. CONSTRUCTION OF ORDINANCES

Sec. 1-2.1 Construction Of Code.

In ascertaining the construction or meaning of the Code the following rules shall be observed unless it shall be apparent from the context that a different construction or meaning is intended:

(a) General rule. All words and phrases shall be understood according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be understood according to that peculiar and appropriate meaning.

(b) Ambiguous context. Where the words of a law are ambiguous the meaning may be sought by examining the context with which the ambiguous words, phrases, and sentences may be compared, in order to ascertain their true meaning. In addition, the reason and spirit of the law, and the cause which induced the Council to enact it, may be considered to discover its true meaning. Finally, every construction which leads to an absurdity shall be rejected.

(c) Ordinances in pari materia. Ordinances in pari materia, or upon the same subject matter, shall be construed with reference to each other. What is clear in one ordinance may be called in aid to explain what is doubtful in another.

(d) Number and Gender. Every word in the Code shall extend to and be applied to all genders; and every word in singular or plural number shall signify both the singular and plural number.

(e) Tenses. Every word used in the present tense shall include the future.

(f) "Must" and "shall," "may." The terms "must" and "shall" are mandatory. The term "may" is permissive.

(g) "Or," "and." Each of the terms "or" and "and" has the meaning of the other or of both.

(h) Acts by subordinate officer. When any provision in the Code requires an act to be done, which may by law as well be done by a subordinate officer as by the superior officer, the requirement shall include all acts when done by an authorized subordinate officer.

(i) Computation Of Time. The time within which an act is to be done as provided in any provision in this Code, when expressed in days, shall be computed by excluding the

first day and including the last, unless the last day is a Sunday or holiday, in which case it is also excluded. (Sec. 1-2.1, R.C.O. 1976)

Sec. 1-2.2 When Rules Of Construction Shall Not Apply.

The rules of construction as set forth in Section 1-2.1 shall not be applied to any provision of the Code which shall contain any express provision excluding that construction, or when the subject matter or context of a provision of the Code may be repugnant thereto. (Sec. 1-2.2, R.C.O. 1976)

Sec. 1-2.3 Reference To Titles, Chapters, Articles Or Sections; Conflicting Provisions.

In addition to the rules of construction specified in Section 1-2.1, the following rules shall be observed in the construction of the provisions of the Code:

(a) All references to titles, chapters, articles or sections are to the titles, chapters, articles and sections of the Code unless otherwise specified.

(b) If the provisions of different chapters of the Code conflict with or contravene each other, the provisions of each chapter shall prevail as to matters and questions growing out of the subject matter of the chapter.

(c) If conflicting provisions are found in different sections of the same chapter, the provisions of the section which are enacted later in time shall prevail unless the construction is inconsistent with the meaning of the chapter. (Sec. 1-2.3, R.C.O. 1976)

Sec. 1-2.4 Penalty Where No Penalty Provided.

In any case where there shall be a violation of any of the criminal provisions of the Code for which no penalty is provided, the person violating the provision shall be subject to a fine of not more than One Hundred Dollars (\$100) for each offense. (Sec. 1-2.4, R.C.O. 1976)

Sec. 1-2.5 Penalty Where No Penalty Provided; Charter.

Any person who violates any provision of the Kauai County Charter shall, upon conviction thereof, be subject to a fine not exceeding One Thousand Dollars (\$1000) or imprisonment not to exceed one (1) year, or both for each offense. (Ord. No. 149, April 8, 1971; Sec. 1-2.4, R.C.O. 1976)

ARTICLE 3. DEFINITIONS

Sec. 1-3.1 Terms, Phrases And Words.

For the purposes of the Code the following terms, phrases, words and their derivations shall have the meaning

given in this Section, unless it shall be apparent from the context that a different meaning was intended:

(1) "Agency" means any office, department, board, commission or other governmental unit of the County.

(2) "Employee" means any person, except an officer, employed by the County or agency thereof, but the term shall not include an independent contractor.

(3) "Officer" includes the following:

(A) Mayor, members of the County Council, County Attorney, Prosecuting Attorney, Director of Finance and County Clerk.

(B) Any person appointed as Administrative Head of any agency of the County or as a member of any board or commission.

(C) Any person appointed by a board or commission as the Administrative Head of any agency of the County.

(D) Assistant and Deputies appointed by the Administrative Head of any agency of the County.

(4) "County" means the County of Kauai.

(5) "Council" means the Council of the County of Kauai.

(6) "Persons" or words importing persons signifies not only individual natural persons, but partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations, or any officers, agents, employees, factors or any kind of personal representative of any thereof, in any capacity, either acting for himself, or for any other person, under either personal appointment, or pursuant to law, where it appears, from the subject matter, the sense and connection in which the words are used that such construction is intended. (Sec. 1-3.1, R.C.O. 1976)

ARTICLE 4. REPEAL OF ORDINANCES AND RESOLUTIONS

Sec. 1-4.1 Repeal.

The repeal of any ordinance or resolution shall not be construed to revive any other ordinance or resolution which has been repealed, unless it is clearly expressed. (Sec. 1-4.1, R.C.O. 1976)

Sec. 1-4.2 Express Or Implied Repeals.

The repeal of an ordinance or resolution is either express or implied. It is express when it is literally declared by a subsequent ordinance or resolution; it is implied when the new ordinance or resolution contains provisions contrary to, or irreconcilable with, those of the former ordinance or resolution. (Sec. 1-4.2, R.C.O. 1976)

Sec. 1-4.3 Effect On Rights Accrued.

The repeal of any ordinance or resolution shall in no case affect any act done, or any right accruing, acquired or

established, or any suit or proceeding had or commenced in any civil case, before the time when the repeal shall take effect. (Sec. 1-4.3, R.C.O. 1976)

Sec. 1-4.4 Effect On Pending Suit Or Prosecution.

No suit or prosecution pending at the time of the repeal of any ordinance or resolution, for any offense committed, or for the recovery of any penalty or forfeiture incurred under the ordinance or resolution so repealed, shall be affected by that repeal. (Sec. 1-4.4, R.C.O. 1976)

ARTICLE 5. SEVERABILITY

Sec. 1-5.1 General Severability Provision.

If any portion of the Code or its application to any person or circumstances, shall be held unconstitutional or invalid, the remainder of the Code and the application of that portion to other persons or circumstances shall not be affected thereby. (Sec. 1-5.5, R.C.O. 1976)

